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Attorneys for America Can! Cars for Kids

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KARS 4 KIDS INC.,

Plaintiff,

v.

AMERICA CAN!,

Defendant.

Case No. 3:14-cv-07770-PGS-LHG

AMERICA CAN! Cars for Kids,

Plaintiff,

v.

KARS 4 KIDS INC.,

Defendant.

Case No. 3:16-cv-04232-PGS-LHG

AMERICA CAN! CARS FOR KIDS' STATEMENT OF THE CASE

America Can! Cars for Kids, pursuant to this Court's April 10, 2019, Order submits the following as its proposed Statement of the Case:

PROPOSAL

During the parties' Opening Statements and the course of the trial, you will hear more about the parties and their claims, but the Court would like to provide you with a brief overview of this case. It is a trademark infringement, trademark dilution and unfair competition case.

A trademark is a term that signifies to the consumer the source of a product or the source of services. A trademark owner may exclude others from using its trademark or words that are so similar to its trademark that those marks are likely to cause confusion in the marketplace, or dilute the distinctiveness of the owner's trademark. When a trademark is offered in the context of services, as is the case here, it is also referred to as a service mark.

Here, each party is a plaintiff in their own case against the other and each party is a defendant in the other's case. Both Kars (spelled with a "K") 4 (numerical four) Kids and America Can! Cars (spelled with a "C") for Kids are nonprofit organizations. Each organization, as part of its fundraising activities, solicits and receives used automobile donations, and auctions those vehicles as part of its fundraising activities. America Can! Cars for Kids uses the donations to fund charter schools that create and support educational programs for at risk youth of all faiths to

help those children obtain a high school diploma and to give them the tools needed to achieve economic independence regardless of religious affiliation or denomination. Kars 4 Kids Inc. alleges that it uses the revenues generated from those donations to give to another entity named Oorah Inc., who then uses the transfer to fund educational, developmental, and recreational programs for Jewish youth and their families.

In this case, these two parties have claims against the other. Each party contends that it has a superior right to use certain trademarks in its advertising and in its solicitation of vehicle donations. The purpose of this trial is to resolve whether one party or the other has a superior right to use the marks in question, and, if so, whether the use of marks by the party with inferior right has caused damage to the other party.

Dated: April 18, 2019

Respectfully submitted,

s/ Karen A. Confoy

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